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FISCAL IMPACT REPORT

SPONSOR Tsosie DATE TYPED 02/13/05 HB _____

SHORT TITLE Law Student Loan for Service Act SB 659

ANALYST Williams

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$100.0			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	\$100.0		Recurring	Law Student Loan for Service Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to various student financial aid bills, particularly HB 774

SOURCES OF INFORMATION

LFC Files

Administrative Office of the Courts (AOC)

No Response Received From Commission on Higher Education (CHE)

SUMMARY

Synopsis of Bill

The bill creates the Law Student Loan for Service program to address the shortage of legal services available to rural and indigent New Mexico residents. The program would be administered by the Commission on Higher Education (CHE). Effectively, the program would be limited to students at the University of New Mexico Law School. Students must declare intent to serve as an attorney in a pro bono legal services organization, with preference given to students with financial need.

Terms and conditions of the loan program would be set by the CHE, with the Taxation and Revenue Department developing guidelines for designation of the eligible pro bono legal services organizations. The service component would involve loan forgiveness for qualified practice as follows:

- Loan of one year – one year of practice;
- Loan of two years – two years of practice, equally split between loan and service terms; and
- Loan of three years or more – 40 percent of loan forgiven with first year of service, 30 percent of loan with second year of service and 30 percent of loan with third year of service

If law school is completed, but the student does not serve as required, then a penalty of three times the principal due, in addition to principal with 18 percent interest, would be due. A student could appeal based on extenuating circumstances. Immediate payment would be required.

Accrual of interest would begin when the student is no longer enrolled in the law school program or fails to meet the work service requirement. The loan would be immediately due if the student fails to complete the law school program. In these cases, 7 percent interest on the loan would be charged.

The CHE is directed to provide annual reports to the governor and legislature on loans granted with associated information on recipients and service. CHE is authorized to delegate administration of this program to other state agencies.

Significant Issues

The components of this program would be similar to other state loan-for-service programs administered by CHE. The Administrative Office of the Courts (AOC) notes it is not clear what pro bono legal services organizations exist in New Mexico. Further, the AOC notes concerns about the adequacy of the level of salary paid to these individuals upon service employment as well as the potential need to consider “graduated attorneys who provide public service back to the community by other means, such as through public interest law.”

PERFORMANCE IMPLICATIONS

The AOC notes:

“Given their lack of training, the legal research and paperwork of pro se litigants can present challenges to the courts. Paperwork often needs to be amended and resubmitted, and obscure citations researched and considered. Such additional work affects the performance of the courts. It is possible that passage of this Act would decrease the number of pro se litigants, as they would have greater access to pro bono legal services, and this in turn would have a positive impact on some of the courts’ performance measures, such as:

- Cases disposed as a percent of cases filed
- Percent change in case filings by case type
- Clearance rate”

The contents of the annual report could be expanded to include performance measures.

FISCAL IMPLICATIONS

The appropriation of \$100 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of the fiscal year would **not** revert.

The bill creates the law student loan for service fund, a non-reverting fund, to be administered by the CHE.

TECHNICAL ISSUES

Could the pro bono legal services organization definition be tightened, perhaps with designation of nonprofit entity federal tax status? Is the intent to limit the service requirement to organizations within New Mexico?

POSSIBLE QUESTIONS

1. What is the extent of the shortage of lawyers in pro bono legal services organizations?
2. What are the implications that the CHE would "... make a full and careful investigation of the ability and qualifications of each applicant...?"
3. How many potential applicants are anticipated?
4. How many students might be expected to complete versus go into some component of the repayment requirements?
5. To what extent are existing loan-for-service programs administered by CHE effective?
6. Are there any current administrative issues facing existing programs?
7. Does CHE currently (or in the past) delegate administration of loan-for-service programs to other entities? Are these initiatives cost effective?

AW/lg